IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 898 OF 2007

Nivas D. Sawant and others .... Petitioner

versus

Kalyan Dombivli Municipal Corporation ..... Respondent.

Ms. Gauri Godse for the petitioner
Shri A.S.Rao for responents

CORAM; A.P. DESHPANDE, J.
DATED; 5TH APRIL, 2007

P.C.;

1. This writ petition is filed by as many as 71 petitioners who are plaintiffs in a Civil Suit No.20/04. The case of the present petitioners is that they were having shops adjacent to the road and the construction of the said shops was made with the permission of the Corporation. Whereas according to the Corporation the structures were unauthorised and hence after issuing the notice of unauthorised construction, the shops were demolished. After demolition a civil suit has been filed seeking declaration that the notice of demolition is bad in law and further relief of reconstruction of the shops is sought. In the said suit in an earlier round of

litigation, this court has issued direction for expeditious disposal of the suit.

2. After the plaintiffs examined six witnesses, according to the trial court, the plaintiff has closed their evidence and thereafter they repeatedly moved applications seeking interim orders in the nature of answering of interrogatories and issue witness summons for some of the witnesses, and rejection of these applications have given raise to the filing of the writ petition.

3. Perusal of order dated 18-12-2006 clearly reveal that the evidence of the plaintiff has been closed on 15-12-2006 and the applications in question are moved thereafter. The reason for rejecting the application at Exh.266 is that a similar application was rejected prior in point of time. It is obvious that the evidence of plaintiff is over and it is not a stage of interrogatories.

4. Taking over all view of the matter, the trial court has observed that the plaintiffs are trying to prolong the final adjudication of the suit and hence rejected the application finding it frivolous.

5. Perused the impugned order. No interference is

called for with the order passed by the trial court. However, it is made clear that it shall be open for the petitioner/plaintiffs to raise all the grounds that are raised in this writ petition in a regular civil appeal if and in case the suit of the plaintiffs is dismissed.

...